

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

Paul H. Miller, M.D.

**Physician's and Surgeon's
Certificate No. G 10099**

Case No.: 800-2017-036074

Respondent.

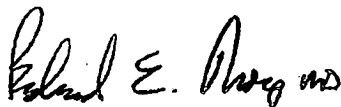
DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on August 19, 2021.

IT IS SO ORDERED: July 20, 2021.

MEDICAL BOARD OF CALIFORNIA



**Richard E. Thorp, M.D., Chair
Panel B**

MATTHEW RODRIQUEZ
Acting Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General
PEGGIE BRADFORD TARWATER
Deputy Attorney General
State Bar No. 169127
California Department of Justice
300 South Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 269-6448
Facsimile: (916) 731-2117
E-mail: Peggie.Tarwater@doj.ca.gov
Attorneys for Complainant

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 800-2017-036074

PAUL H. MILLER, M.D.
625 East Badillo Street
Covina, CA 91723

OAH No. 2020110138

Physician's and Surgeon's Certificate No. G
10099,

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

Respondent.

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. William Prasifka (Complainant) is the Executive Director of the Medical Board of California (Board). He brought this action solely in his official capacity and is represented in this matter by Matthew Rodriquez, Acting Attorney General of the State of California, by Peggie Bradford Tarwater, Deputy Attorney General.

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2. Respondent Paul H. Miller, M.D. (Respondent) is represented in this proceeding by attorney Peter R. Osinoff, whose address is: 355 South Grand Avenue, Suite 1750 Los Angeles, CA 90071-1562.

3. On September 29, 1964, the Board issued Physician's and Surgeon's Certificate No. G 10099 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2017-036074, and will expire on October 31, 2021, unless renewed.

JURISDICTION

4. Accusation No. 800-2017-036074 was filed before the Board and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on August 21, 2020. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2017-036074 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2017-036074. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

III

1 CULPABILITY

2 9. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 800-2017-036074, if proven at a hearing, constitute cause for imposing discipline upon his
4 Physician's and Surgeon's Certificate.

5 10. Respondent does not contest that, at an administrative hearing, Complainant could
6 establish a *prima facie* case with respect to the charges and allegations in Accusation No. 800-
7 2017-036074 and that he has thereby subjected his Physician's and Surgeon's Certificate, No. G
8 10099 to disciplinary action.

9 11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
10 discipline, and he agrees to be bound by the Board's probationary terms as set forth in the
11 Disciplinary Order below.

12 CONTINGENCY

13 12. This stipulation shall be subject to approval by the Medical Board of California.
14 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
15 Board of California may communicate directly with the Board regarding this stipulation and
16 settlement, without notice to or participation by Respondent or his counsel. By signing the
17 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
18 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
19 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
20 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
21 action between the parties, and the Board shall not be disqualified from further action by having
22 considered this matter.

23 13. Respondent agrees that if he ever petitions for early termination or modification of
24 probation, or if an accusation and/or petition to revoke probation is filed against him before the
25 Board, all of the charges and allegations contained in Accusation No. 800-2017-036074 shall be
26 deemed true, correct and fully admitted by Respondent for purposes of any such proceeding or
27 any other licensing proceeding involving Respondent in the State of California.

28 ///

1 14. The parties understand and agree that Portable Document Format (PDF) and facsimile
2 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
3 signatures thereto, shall have the same force and effect as the originals.

4 15. In consideration of the foregoing admissions and stipulations, the parties agree that
5 the Board may, without further notice or opportunity to be heard by the Respondent, issue and
6 enter the following Disciplinary Order:

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 10099 issued
9 to Respondent Paul H. Miller, M.D. is revoked. However, the revocation is stayed and
10 Respondent is placed on probation for 35 months upon the following terms and conditions.

11 1. EDUCATION COURSE. Within 60 calendar days of the effective date of this
12 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee
13 for its prior approval educational program(s) or course(s) which shall not be less than 40 hours
14 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at
15 correcting any areas of deficient practice or knowledge and shall be Category I certified. The
16 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to
17 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the
18 completion of each course, the Board or its designee may administer an examination to test
19 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65
20 hours of CME of which 40 hours were in satisfaction of this condition.

21 2. PRESCRIBING PRACTICES COURSE. Within 60 calendar days of the effective
22 date of this Decision, Respondent shall enroll in a course in prescribing practices approved in
23 advance by the Board or its designee. Respondent shall provide the approved course provider
24 with any information and documents that the approved course provider may deem pertinent.
25 Respondent shall participate in and successfully complete the classroom component of the course
26 not later than six months after Respondent's initial enrollment. Respondent shall successfully
27 complete any other component of the course within one year of enrollment. The prescribing
28 practices course shall be at Respondent's expense and shall be in addition to the CME

1 requirements for renewal of licensure.

2 A prescribing practices course taken after the acts that gave rise to the charges in the
3 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
4 or its designee, be accepted towards the fulfillment of this condition if the course would have
5 been approved by the Board or its designee had the course been taken after the effective date of
6 this Decision.

7 Respondent shall submit a certification of successful completion to the Board or its
8 designee not later than 15 calendar days after successfully completing the course, or not later than
9 15 calendar days after the effective date of the Decision, whichever is later.

10 3. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective
11 date of this Decision, Respondent shall enroll in a course in medical record keeping approved in
12 advance by the Board or its designee. Respondent shall provide the approved course provider
13 with any information and documents that the approved course provider may deem pertinent.
14 Respondent shall participate in and successfully complete the classroom component of the course
15 not later than six months after Respondent's initial enrollment. Respondent shall successfully
16 complete any other component of the course within one year of enrollment. The medical record
17 keeping course shall be at Respondent's expense and shall be in addition to the CME
18 requirements for renewal of licensure.

19 A medical record keeping course taken after the acts that gave rise to the charges in the
20 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
21 or its designee, be accepted towards the fulfillment of this condition if the course would have
22 been approved by the Board or its designee had the course been taken after the effective date of
23 this Decision.

24 Respondent shall submit a certification of successful completion to the Board or its
25 designee not later than 15 calendar days after successfully completing the course, or not later than
26 15 calendar days after the effective date of the Decision, whichever is later.

27 4. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
28 the effective date of this Decision, Respondent shall enroll in a professionalism program, that

1 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
2 Respondent shall participate in and successfully complete that program. Respondent shall
3 provide any information and documents that the program may deem pertinent. Respondent shall
4 successfully complete the classroom component of the program not later than six months after
5 Respondent's initial enrollment, and the longitudinal component of the program not later than the
6 time specified by the program, but no later than one year after attending the classroom
7 component. The professionalism program shall be at Respondent's expense and shall be in
8 addition to the CME requirements for renewal of licensure.

9 A professionalism program taken after the acts that gave rise to the charges in the
10 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
11 or its designee, be accepted towards the fulfillment of this condition if the program would have
12 been approved by the Board or its designee had the program been taken after the effective date of
13 this Decision.

14 Respondent shall submit a certification of successful completion to the Board or its
15 designee not later than 15 calendar days after successfully completing the program or not later
16 than 15 calendar days after the effective date of the Decision, whichever is later.

17 5. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this
18 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice
19 monitor, the name and qualifications of one or more licensed physicians and surgeons whose
20 licenses are valid and in good standing, and who are preferably American Board of Medical
21 Specialties certified. A monitor shall have no prior or current business or personal relationship
22 with Respondent, or other relationship that could reasonably be expected to compromise the
23 ability of the monitor to render fair and unbiased reports to the Board, including but not limited to
24 any form of bartering, shall be in Respondent's field of practice, and must agree to serve as
25 Respondent's monitor. Respondent shall pay all monitoring costs.

26 The Board or its designee shall provide the approved monitor with copies of the Decision
27 and Accusation, and a proposed monitoring plan. Within 15 calendar days of receipt of the
28 Decision, Accusation, and proposed monitoring plan, the monitor shall submit a signed statement

1 that the monitor has read the Decision and Accusation, fully understands the role of a monitor,
2 and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the
3 proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed
4 statement for approval by the Board or its designee.

5 Within 60 calendar days of the effective date of this Decision, and continuing throughout
6 probation, Respondent's practice monitor shall be monitored by the approved monitor.

7 Respondent shall make all records available for immediate inspection and copying on the
8 premises by the monitor at all times during business hours and shall retain the records for the
9 entire term of probation.

10 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective
11 date of this Decision, Respondent shall receive a notification from the Board or its designee to
12 cease the practice of medicine within three calendar days after being so notified. Respondent
13 shall cease the practice of medicine until a monitor is approved to provide monitoring
14 responsibility.

15 The monitor shall submit a quarterly written report to the Board or its designee which
16 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
17 are within the standards of practice of medicine and whether Respondent is practicing medicine
18 safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the
19 quarterly written reports to the Board or its designee within 10 calendar days after the end of the
20 preceding quarter.

21 If the monitor resigns or is no longer available, Respondent shall, within five calendar days
22 of such resignation or unavailability, submit to the Board or its designee, for prior approval, the
23 name and qualifications of a replacement monitor who will be assuming that responsibility within
24 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
25 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
26 notification from the Board or its designee to cease the practice of medicine within three calendar
27 days after being so notified. Respondent shall cease the practice of medicine until a replacement
28 monitor is approved and assumes monitoring responsibility.

1 In lieu of a monitor, Respondent may participate in a professional enhancement program
2 approved in advance by the Board or its designee that includes, at minimum, quarterly chart
3 review, semi-annual practice assessment, and semi-annual review of professional growth and
4 education. Respondent shall participate in the professional enhancement program at
5 Respondent's expense during the term of probation.

6 6. NOTIFICATION. Within seven days of the effective date of this Decision, the
7 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
8 Chief Executive Officer at every hospital where privileges or membership are extended to
9 Respondent, at any other facility where Respondent engages in the practice of medicine,
10 including all physician and locum tenens registries or other similar agencies, and to the Chief
11 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
12 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
13 calendar days.

14 This condition shall apply to any changes in hospitals, other facilities, or insurance carriers.

15 7. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
16 NURSES. During probation, Respondent is prohibited from supervising physician assistants and
17 advanced practice nurses.

18 8. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
19 governing the practice of medicine in California and remain in full compliance with any court
20 ordered criminal probation, payments, and other orders.

21 9. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
22 under penalty of perjury on forms provided by the Board, stating whether there has been
23 compliance with all the conditions of probation.

24 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
25 of the preceding quarter.

26 10. GENERAL PROBATION REQUIREMENTS.

27 Compliance with Probation Unit

28 Respondent shall comply with the Board's probation unit.

1 Address Changes

2 Respondent shall, at all times, keep the Board informed of Respondent's business and
3 residence addresses, email address (if available), and telephone number. Changes of such
4 addresses shall be immediately communicated in writing to the Board or its designee. Under no
5 circumstances shall a post office box serve as an address of record, except as allowed by Business
6 and Professions Code section 2021, subdivision (b).

7 Place of Practice

8 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
9 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
10 facility.

11 License Renewal

12 Respondent shall maintain a current and renewed California physician's and surgeon's
13 license.

14 Travel or Residence Outside California

15 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
16 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than 30
17 calendar days.

18 In the event Respondent should leave the State of California to reside or to practice,
19 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
20 departure and return.

21 11. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
22 available in person upon request for interviews either at Respondent's place of business or at the
23 probation unit office, with or without prior notice throughout the term of probation.

24 12. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
25 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
26 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
27 defined as any period of time Respondent is not practicing medicine as defined in Business and
28 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct

1 patient care, clinical activity or teaching, or other activity as approved by the Board. If
2 Respondent resides in California and is considered to be in non-practice, Respondent shall
3 comply with all terms and conditions of probation. All time spent in an intensive training
4 program which has been approved by the Board or its designee shall not be considered non-
5 practice and does not relieve Respondent from complying with all the terms and conditions of
6 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
7 on probation with the medical licensing authority of that state or jurisdiction shall not be
8 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
9 period of non-practice.

10 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
11 months, Respondent shall successfully complete the Federation of State Medical Boards' Special
12 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
13 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
14 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

15 Respondent's period of non-practice while on probation shall not exceed two years.

16 Periods of non-practice will not apply to the reduction of the probationary term.

17 Periods of non-practice for a Respondent residing outside of California will relieve
18 Respondent of the responsibility to comply with the probationary terms and conditions with the
19 exception of this condition and the following terms and conditions of probation: Obey All Laws;
20 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
21 Controlled Substances; and Biological Fluid Testing.

22 13. COMPLETION OF PROBATION. Respondent shall comply with all financial
23 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
24 completion of probation. Upon successful completion of probation, Respondent's certificate shall
25 be fully restored.

26 14. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
27 of probation is a violation of probation. If Respondent violates probation in any respect, the
28 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and

1 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,
2 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
3 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
4 the matter is final.

5 15. LICENSE SURRENDER. Following the effective date of this Decision, if
6 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
7 the terms and conditions of probation, Respondent may request to surrender his or her license.
8 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
9 determining whether or not to grant the request, or to take any other action deemed appropriate
10 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
11 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
12 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
13 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
14 application shall be treated as a petition for reinstatement of a revoked certificate.

15 16. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
16 with probation monitoring each and every year of probation, as designated by the Board, which
17 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
18 California and delivered to the Board or its designee no later than January 31 of each calendar
19 year.

20 17. FUTURE ADMISSIONS CLAUSE. If Respondent should ever apply or reapply for
21 a new license or certification, or petition for reinstatement of a license, by any other health care
22 licensing action agency in the State of California, all of the charges and allegations contained in
23 Accusation No. 800-2017-036074 shall be deemed to be true, correct, and admitted by
24 Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or
25 restrict license.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Peter R. Osinoff. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: 4/12/2021

Paul H. Miller
PAUL H. MILLER, M.D.
Respondent

I have read and fully discussed with Respondent Paul H. Miller, M.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 4/13/2021

Peter R. Osinoff
PETER R. OSINOFF, ESQ.
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

DATED: _____

Respectfully submitted,

MATTHEW RODRIGUEZ
Acting Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General

PEGGIE BRADFORD TARWATER
Deputy Attorney General
Attorneys for Complainant

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1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Peter R. Osinoff. I understand the stipulation and the effect it will
4 have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
5 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
6 Decision and Order of the Medical Board of California.

7
8 DATED: _____

9 PAUL H. MILLER, M.D.
Respondent

10 I have read and fully discussed with Respondent Paul H. Miller, M.D. the terms and
11 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
12 I approve its form and content.

13 DATED: _____

14 PETER R. OSINOFF, ESQ.
Attorney for Respondent

15
16 ENDORSEMENT

17 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
18 submitted for consideration by the Medical Board of California.

19 DATED: April 14, 2021

20 Respectfully submitted,

21 MATTHEW RODRIQUEZ
Acting Attorney General of California
22 JUDITH T. ALVARADO
Supervising Deputy Attorney General

23 Peggie B.

24 Tarwater

25 PEGGIE BRADFORD TARWATER
Deputy Attorney General
Attorneys for Complainant

Digitally signed by Peggie B.
Tarwater
Date: 2021.04.14 17:25:02
-07'00'

26 LA2020600999
27 64114124.docx

Exhibit A

Accusation No. 800-2017-036074

1 XAVIER BECERRA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 PEGGIE BRADFORD TARWATER
Deputy Attorney General
4 State Bar No. 169127
California Department of Justice
5 300 South Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 269-6448
Facsimile: (916) 731-2117
7 E-mail: Peggie.Tarwater@doj.ca.gov
Attorneys for Complainant

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9
10 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**
12

13 In the Matter of the Accusation Against:

Case No. 800-2017-036074

14 Paul H. Miller, M.D.
625 East Badillo Street
15 Covina, CA 91723

A C C U S A T I O N

16 Physician's and Surgeon's Certificate
No. G 10099,

17 Respondent.
18

19
20 **PARTIES**

21 1. William Prasifka (Complainant) brings this Accusation solely in his official capacity
22 as the Executive Director of the Medical Board of California, Department of Consumer Affairs
23 (Board).

24 2. On or about September 29, 1964, the Medical Board issued Physician's and Surgeon's
25 Certificate Number G 10099 to Paul H. Miller, M.D. (Respondent). The Physician's and
26 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
27 herein and will expire on October 31, 2021, unless renewed.

28 ///

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code, states:

The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

(b) Gross negligence.

(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

6. Section 2242, subdivision (a) of the Code states, in pertinent part:

(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 without an appropriate prior examination and a medical indication, constitutes unprofessional conduct. . . .

7. Section 725 of the Code states:

(a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or administering of drugs or treatment, repeated acts of clearly excessive use of

1 diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or
2 treatment facilities as determined by the standard of the community of licensees is
3 unprofessional conduct for a physician and surgeon, dentist, podiatrist, psychologist,
4 physical therapist, chiropractor, optometrist, speech-language pathologist, or
5 audiologist.

6 (b) Any person who engages in repeated acts of clearly excessive prescribing or
7 administering of drugs or treatment is guilty of a misdemeanor and shall be punished
8 by a fine of not less than one hundred dollars (\$100) nor more than six hundred
9 dollars (\$600), or by imprisonment for a term of not less than 60 days nor more than
10 180 days, or by both that fine and imprisonment.

11 (c) A practitioner who has a medical basis for prescribing, furnishing,
12 dispensing, or administering dangerous drugs or prescription controlled substances
13 shall not be subject to disciplinary action or prosecution under this section.

14 (d) No physician and surgeon shall be subject to disciplinary action pursuant to
15 this section for treating intractable pain in compliance with Section 2241.5.

16 8. Section 2266 of the Code states: "The failure of a physician and surgeon to maintain
17 adequate and accurate records relating to the provision of services to their patients constitutes
18 unprofessional conduct."

19 DEFINITIONS

20 9. Norco, a Schedule II controlled substance, is a combination of the opioid pain
21 medication hydrocodone, and the pain medication acetaminophen, a more mild pain reliever that
22 increases the effect of hydrocodone.

23 10. Acetaminophen (Tylenol) with codeine, a Schedule III controlled substance, is used
24 for the treatment of pain.

25 11. Ascomp with codeine/Fioricet with codeine, a Schedule III controlled substance
26 containing a combination of butalbital/aspirin/caffeine/codeine, is used to treat tension headaches.

27 12. Alprazolam (brand-name Xanax), a Schedule IV controlled substance, is a
28 benzodiazepine drug used for treatment of anxiety and panic disorder.

13 13. Zolpidem (brand-name Ambien); a Schedule IV drug, is used for the treatment of
14 insomnia.

15 14. Carisoprodol (brand-name Soma), a Schedule IV drug, is a muscle relaxer.

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1 FIRST CAUSE FOR DISCIPLINE

2 (Gross Negligence)

3 15. Respondent Paul H. Miller, M.D. is subject to disciplinary action under section 2234,
4 subdivision (b), in that he was grossly negligent in the treatment of Patient 1 and Patient 2.¹

5 16. During the time relevant to this Accusation, Respondent practiced medicine with a
6 partner in Covina, California. His practice consisted of approximately 90 percent cardiology
7 patients and 10 percent of internal medicine patients.

8 17. Patient 1, a 58-year-old female, was Respondent's office manager. Respondent acted
9 as her primary care provider. Respondent's medical records for Patient 1 reflect treatment
10 beginning in 2009 and continuing through approximately April 2018.

11 18. Patient 2, a 64-year-old male, began treating with Respondent in approximately 2013
12 with a last visit in January 2018. Patient 1 and Patient 2 married in 2016.

13 19. Controlled Substance Utilization Review and Evaluation System (CURES) reports for
14 Respondent as a prescriber covering the period of September 20, 2014, through November 13,
15 2017 (the prescribing period) included more than 200 patients. It demonstrated approximately 10
16 patients who had been prescribed chronic pain management medications with two patients,
17 Patient 1 and Patient 2, representing 15 percent of the controlled substances prescribed by
18 Respondent. Patient 1 accounted for more than 40 percent of controlled substances filled by all
19 chronic pain patients in the three-year timeframe.

20 20. According to Respondent, he had a small number of chronic pain patients in his
21 practice who were long-term patients. His requirement for those patients was to see them in
22 person for an examination every time they received a controlled substance. At a maximum, his
23 practice was to authorize two refills of controlled substances.

24 21. Respondent did not consult CURES with regard to his controlled substance
25 prescribing.

26
27 ¹ Patients are referred to by number to protect their privacy. Respondent is aware of the
28 identity of each patient, and further identifying information will be provided pursuant to a
Request for Discovery.

1 Patient 1

2 22. CURES reporting reflects that during the prescribing period, prescriptions written by
3 Respondent for Patient 1 were filled representing a morphine milligram equivalency (MME)² of
4 58-66 MME daily, increasing to 70 to 80 MME by May and June 2017, increasing Patient 1's risk
5 of respiratory depression and death.

6 23. CURES reporting demonstrates that prescriptions for Patient 1 were filled in different
7 names, at different pharmacies, and by different physicians.

8 24. For example, the following prescriptions were filled for Patient 1 in June 2017:

9 June 1, Norco, 60 pills, filled for Patient 1 under her maiden name by Sierra
10 Pharmacy, prescribed by Respondent's partner.

11 June 1, Zolpidem, 60 pills, filled for Patient 1 under her maiden name by Costco
12 Pharmacy, prescribed by Respondent.

13 June 9, Norco, 60 pills, filled for Patient 1 under her married name by Target
14 Pharmacy, prescribed by Respondent.

15 June 22, Norco, 60 pills, filled for Patient 1 under her maiden name by Target
16 Pharmacy, prescribed by Respondent.

17 June 22, Soma, 120 pills, filled for Patient 1 under her married name by Sierra
18 Pharmacy, prescribed by Respondent.

19 June 22, Norco, 30 pills, filled for Patient 1 under her maiden name by Sierra
20 Pharmacy, prescribed by a physician outside of Respondent's practice.

21 June 29, Norco, 60 pills, filled for Patient 1 under her maiden name by Sierra
22 Pharmacy, prescribed by Respondent.

23 June 30, Fioricet with codeine, 90 pills, filled for Patient 1 under her maiden name by
24 Target Pharmacy, prescribed by a physician outside of Respondent's practice.

25
26
27 ² The MME is a value representing daily dosing which allows the prescriber a benchmark
28 for safe narcotic prescribing. Centers for Disease Control guidelines recommend prescribing the
lowest effective opioid dose and using caution when increasing the dosage, particularly when
increasing to more than 50 MME per day.

1 25. Medical records, including prescriptions, reflect that during the prescribing period,
2 Respondent prescribed the following substances to Patient 1: Norco, Ascomp/Fioricet with
3 codeine, acetaminophen with codeine, Soma, zolpidem, and alprazolam.

4 26. Respondent's medical records for Patient 1 include a sheet entitled "subsequent visit
5 and findings." This sheet contains a date of an office visit or date on which prescriptions were
6 dispensed outside of an office visit, consultant reports received, and lab or x-ray results. For
7 office visits, the subsequent visit and findings sheet generally contains a note indicating "follow
8 up note filed in chart."

9 27. With the exception of notes for an August 2015 pre-surgical clearance for gastric
10 surgery, the medical records lack follow up notes to match the visit dates. The medical records
11 contain prescriptions for controlled substances and other medications without accompanying
12 follow up notes.

13 28. Respondent's medical records do not contain a patient history and physical
14 examination related to controlled substance prescribing, including prescribing for narcotic pain
15 medication, benzodiazepines, and muscle relaxers.

16 29. Respondent represented he saw Patient 1 as a "formal patient" and checked her blood
17 pressure, but most of the time he relied on interacting with her on a daily basis.

18 30. Patient 1 had a history of hypertension and smoking, placing her at a high risk for
19 complications from narcotic use, a factor that Respondent did not consider in his prescribing.

20 31. Respondent did not consider Patient 1's history of gastrointestinal problems and the
21 potential exacerbation of the problems with narcotics use.

22 32. Respondent received reports from medical consultants relating to the care of Patient 1
23 which demonstrated that Respondent did not accurately convey Patient 1's controlled substance
24 use.

25 33. Respondent prepared a consultation note in relation to an August 2015 gastric surgery
26 which did not fully relay Patient 1's narcotic usage. Respondent disclosed that Patient 1 was
27 taking Norco twice per day as needed and Tylenol with codeine at 30 mg. with an unspecified
28 daily dosage. Respondent's medical records reflect that in the timeframe of the surgery, Patient 1

1 was prescribed Norco, one to two pills every four hours, and the Tylenol with codeine every six
2 hours.

3 34. In preparation for her August 2015 gastric surgery, Respondent conducted an
4 electrocardiogram (EKG). Respondent noted a result that was within normal limits. However,
5 the EKG reflects normal sinus rhythm with T-wave inversion, an abnormal result that can be seen
6 with ischemia (inadequate blood supply to the heart), ventricular strain, electrolyte disorders, or
7 other conditions.

8 35. Respondent was grossly negligent in the care and treatment of Patient 1 as follows:

- 9 a. Respondent failed to perform and/or document a medical history and examination,
10 including preparing a treatment plan with periodic review and consultation when
11 needed, in prescribing controlled substances to Patient 1, as required by the standard
12 of care.
- 13 b. Respondent failed to consult CURES during the prescribing period for Patient 1 and/or
14 consider excessive prescribing as required by the standard of care.
- 15 c. Respondent failed to appropriately document his narcotic prescribing to Patient 1, as
16 required by the standard of care.
- 17 d. Respondent failed to provide and/or document appropriate routine surveillance and
18 preventive vaccinations, as Patient 1's primary care giver, as required by the standard
19 of care.
- 20 e. Respondent failed to accurately read Patient 1's August 17, 2015 EKG, as required by
21 the standard of care.

22 Patient 2

23 36. CURES reporting reflects that during the prescribing period, prescriptions for Patient
24 2 were written by Respondent and filled beginning on October 21, 2014, with a months' supply of
25 zolpidem and Soma. The medications were then refilled in the following month and thereafter
26 monthly for years, into October 2017.

27 37. At the end of December 2014, CURES reporting for prescriptions written by
28 Respondent reflects that Patient 2 received a prescription for 120 tablets of 10 mg Norco. Norco

1 was then filled for Patient 2 on January 27, 2015, and then again on February 5, 2015, although at
2 90 tablets, 5 mg strength. Norco was then filled approximately monthly at the dosage of 120
3 tablets, 10 mg for years, continuing through the end of the CURES reports in November 2017.

4 38. Respondent's medical records for Patient 2 include a sheet entitled "subsequent visit
5 and findings." This sheet contains a date of an office visit or date on which prescriptions were
6 dispensed outside of an office visit, consultant reports received, and lab or x-ray results. For
7 office visits, the subsequent visit and findings sheet generally contains a note indicating "follow
8 up note filed in chart." The medical record for Patient 2 includes follow up notes for some visits.

9 39. Respondent's medical records and actual prescriptions demonstrate that Respondent
10 prescribed zolpidem, Soma, and Norco to Patient 2.

11 40. Respondent's medical records for Patient 2 reflect a prescription for zolpidem on
12 March 17, 2014. However, there is no corresponding follow up note reflecting a visit at which
13 zolpidem was discussed and prescribed. Zolpidem is not listed in the follow up notes as a drug
14 Patient 2 is taking until a visit of April 29, 2016.

15 41. The first follow up note for an office visit appears in the record with a date of
16 February 4, 2015. At that visit, Respondent notes that Patient 2 is taking Norco, along with other
17 non-controlled medications. There is a note that the patient will lower his Norco use, but there is
18 no explanation for the Norco prescription.

19 42. Prescriptions reflect that Respondent prescribed Soma to Patient 2, but there is no
20 mention of the medication in Respondent's follow-up notes.

21 43. Respondent's follow up notes fail to contain the reasoning for prescribing controlled
22 substances. The physical examination is frequently duplicated, and several systems are not
23 recognized. The lung examination is without change, and there is never an ear, nose and throat
24 examination, important considerations in a middle-aged patient who is a prior smoker.

25 44. For those follow up visits that reflect prescribing to Patient 2, a note of zero quantity
26 and zero refills is included for each medication.

27 45. Although Respondent acted as Patient 2's primary care provider, he did not provide
28 him with routine care in relation to his risk factors, including addressing routine vaccinations for

1 tetanus, flu, or pneumonia and addressing colorectal or prostate cancer screening tests for a
2 patient over 50 years old.

3 46. Respondent was grossly negligent in the care and treatment of Patient 2 as follows:

- 4 a. Respondent failed to perform and/or document a medical history and examination,
5 including preparing a treatment plan with correct medications prescribed, and periodic
6 review and consultation when needed, in prescribing controlled substances to Patient 2
7 as required by the standard of care.
- 8 b. Respondent failed to consult CURES during the prescribing period for Patient 2 and/or
9 consider excessive prescribing as required by the standard of care.
- 10 c. Respondent failed to provide and/or document appropriate routine care, including
11 preventive vaccinations, as Patient 2's primary caregiver, as required by the standard
12 of care.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Repeated Negligent Acts)**

15 47. Respondent is subject to disciplinary action under section 2234, subdivision (c) in
16 that he engaged in repeated negligent acts in the care and treatment of Patient 1 and Patient 2.
17 The circumstances are as follows:

18 48. The allegations of the First Cause for Discipline are incorporated as if fully set forth.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Prescribing without Appropriate Examination)**

21 49. Respondent is subject to disciplinary action under section 2242, subdivision (a) in
22 that he prescribed dangerous drugs to Patient 1 and Patient 2 without an appropriate prior
23 examination and a medical indication. The circumstances are as follows:

24 50. The allegations of the First Cause for Discipline are incorporated as if fully set forth.

25 **FOURTH CAUSE FOR DISCIPLINE**

26 **(Excessive Prescribing)**

27 51. Respondent is subject to disciplinary action under section 725 in that he excessively
28 prescribed drugs to Patient 1. The circumstances are as follows:

1 52. The allegations in paragraphs 15 through 33 and 35 of the First Cause for Discipline
2 are incorporated as if fully set forth.

3 FIFTH CAUSE FOR DISCIPLINE

4 (Failure to Maintain Adequate and Accurate Records)

5 53. Respondent is subject to disciplinary action under section 2266 in that he failed to
6 maintain adequate and accurate records in the care and treatment of Patient 1 and Patient 2. The
7 circumstances are as follows:

8 54. The allegations of the First Cause for Discipline are incorporated as if fully set forth.

9 PRAYER

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Medical Board of California issue a decision:

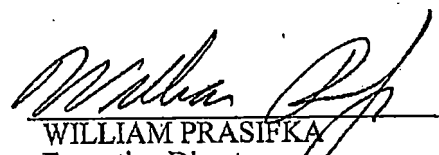
12 1. Revoking or suspending Physician's and Surgeon's Certificate Number G 10099,
13 issued to Respondent Paul H. Miller, M.D.;

14 2. Revoking, suspending or denying approval of Respondent's authority to supervise
15 physician assistants and advanced practice nurses;

16 3. Ordering Respondent, if placed on probation, to pay the Board the costs of probation
17 monitoring; and

18 4. Taking such other and further action as deemed necessary and proper.

19
20 DATED: AUG 21 2020


WILLIAM PRASIFKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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